(2) Supreme Court, U.S.
FILED

CASE NO. 00-362 AUG 23 2000

OFFICE OF THE CLERK

In The
SUPREME COURT
Of The
UNITED STATES

October Term, 1999

FERNANDO GALINDO DEL VALLE,

Petitioner,

vs.

THE ATTORNEY GENERAL,
IMMIGRATION & NATURALIZATION SERVICE,

Respondents.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI

ALFONSO M. SALDANA
One Brickell Square
801 Brickell Avenue
Suite 900
Miami, Florida 33131
(305) 371-0066

Counsel For Petitioner

5pp

INDEX TO SUPPLEMENTAL APPENDIX

Page(s)

DECISION OF THE BOARD
OF IMMIGRATION APPEALS 1-2

DECISION OF THE IMMIGRATION JUDGE 3

U.S. Department of Justice
Appeals
Executive Office for Immigration Review
Falls Church, Virginia 22041

Decision of the Board of Immigration

File: A18 240 935-Krome

Date: May 7, 1999

In re: FERNANDO GALINDO-DEL VALLE

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Joan M. Powers, Esquire
2562 S.W. 8th Street
Sunrise, Florida 33135

CHARGE:

Notice: Sec. 212(a)(2)(A)(i)(II), I & N Act [8 U.S.C. 1227(a)(2)(A)(i)(II)]
Controlled substance violation

Sec. 212(a)(2)(C), I & N Act [8 U.S.C. 1227(a)(2)(C)]-
Controlled substance trafficker

In a decision dated October 22, 1998, an Immigration Judge found the respondent subject to removal on the charges set forth above and determined that he is ineligible for relief from removal. The respondent has appealed. The appeal will be dismissed.

The respondent is a native and citizen of Colombia who was accorded residency on November 29, 1969. On December 18, 1981, the respondent was convicted in the United States District Court for the Southern District of Florida for the offense of importation of methaqualone, in violation of 21

U.S.C. 952(a). For this offense, the respondent was sentenced to five years imprisonment (Exhibit 3). On August 30, 1998, the respondent arrived at Miami International Airport seeking admission as a returning resident alien.

The respondent is not admissible to the United States under section 212(a)(2)(A)(i)(II) of the Immigration And Nationality Act, 8 U.S.C. 1182(a)(2)(A)(i)(II), as an alien who has been convicted of a controlled substance violation, and under section 212(a)(1)(C) of the Act, as an alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance.

The respondent's conviction is also an aggravated felony as defined in section 101(a)(43)(B) of the Act, 8 U.S.C. 1101(a)(43)(B), as illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code). Contrary to his claim on appeal, the respondent is ineligible for withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. 1231(b)(3), due to his conviction for an aggravated felony. See section 2411(b)(3)(B) of the Act. Despite the respondent's constitutional challenge, this Board does not have jurisdiction to rule upon the constitutionality of the Act and the regulations. See section 103 of the Act, 8 U.S.C. 1103, 8 C.F.R. 3.1 (1998); Liu v. Waters, 55 F.3d 421 (9th Cir. 1995); Matter of Fuentes-Campos, Interim Decision 3318 (BIA 1997); Matter of C-, 20 I & N Dec. 529, at 532 (BIA 1992).

ORDER: The appeal is dismissed.

FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Miami, Florida

File No.: A 18 240 935 October 22, 1998

In the Matter of

FERNANDO GALINDO DEL VALLE IN REMOVAL PROCEEDINGS

Respondent

CHARGE:

APPLICATIONS:

ON BEHALF OF RESPONDENT: ON BEHALF OF SERVICE:

Judith Powers Michael Mansfield

ORAL DECISION OF THE IMMIGRATION JUDGE

The Respondent has admitted, through counsel, that the allegations of fact, as amended, are true and correct. See Exhibits 1, Exhibit 2, and Exhibit 3. There are no further matters before this Court.

ORDER

The Respondent shall be removed from the United States pursuant to the charges set forth in the Notice to Appear under Section 212(a)(2)(A)(i)(2) and Section 212(a)(2)(C) of the Notice to Appear.

NEALE S. FOSTER
Immigration Judge